



House of Representatives

General Assembly

File No. 569

January Session, 2007

Substitute House Bill No. 7122

House of Representatives, April 24, 2007

The Committee on Finance, Revenue and Bonding reported through REP. STAPLES of the 96th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE PRESERVATION OF CERTAIN PUBLIC GOLF COURSES AS OPEN SPACE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2007, and applicable to assessment*
2 *years commencing on or after October 1, 2007*) (a) "Public golf course land"
3 means any golf course consisting of at least twenty-five acres of land
4 that is open for use by the public for golfing, derives at least fifty per
5 cent of its annual revenues from daily fees or group outings and
6 consists of not less than nine golf holes.

7 (b) An owner of land may apply for classification as public golf
8 course land on any grand list of a municipality by filing a written
9 notice for such classification with the assessor thereof not less than
10 thirty days before and not later than thirty days after the assessment
11 date, provided in a year in which a revaluation, in accordance with
12 section 12-62 of the general statutes, of all real property becomes
13 effective, such application may be filed not later than ninety days after

14 such assessment date.

15 (c) Failure to file a written notice for classification as public golf
16 course land within the time limit prescribed in subsection (b) of this
17 section shall be considered a waiver of the right to such classification
18 on such assessment list.

19 (d) Any person aggrieved by the denial by an assessor of any
20 application for the classification of land as public golf course land shall
21 have the same rights and remedies for appeal and relief as are
22 provided in the general statutes for taxpayers claiming to be aggrieved
23 by the actions of assessors or boards of assessment appeals.

24 Sec. 2. Subsection (a) of section 12-63 of the general statutes is
25 repealed and the following is substituted in lieu thereof (*Effective*
26 *October 1, 2007, and applicable to assessment years commencing on or after*
27 *October 1, 2007*):

28 (a) The present true and actual value of land classified as farm land
29 pursuant to section 12-107c, as forest land pursuant to section 12-107d,
30 or as open space land pursuant to section 12-107e shall be based upon
31 its current use without regard to neighborhood land use of a more
32 intensive nature, provided in no event shall the present true and actual
33 value of open space land be less than it would be if such open space
34 land comprised a part of a tract or tracts of land classified as farm land
35 pursuant to section 12-107c. The present true and actual value of land
36 classified as public golf course land pursuant to section 1 of this act
37 shall be based upon its value as open space land plus an assessment
38 based upon per hole depreciated improvements that shall be reduced
39 by forty per cent during the first assessment year after application,
40 sixty per cent during the second year, eighty per cent during the third
41 year and one hundred per cent each year thereafter. Said reduction
42 shall not include buildings and parking lots, which shall be valued at
43 fair market value. The present true and actual value of all other
44 property shall be deemed by all assessors and boards of assessment
45 appeals to be the fair market value thereof and not its value at a forced
46 or auction sale.

47 Sec. 3. Subsection (b) of section 12-504a of the general statutes is
48 repealed and the following is substituted in lieu thereof (*Effective*
49 *October 1, 2007, and applicable to assessment years commencing on or after*
50 *October 1, 2007*):

51 (b) Any land which has been classified by the record owner thereof
52 as open space land pursuant to section 12-107e, or as public golf course
53 land pursuant to section 1 of this act, if sold or transferred by him
54 within a period of ten years from the time he first caused such land to
55 be so classified, shall be subject to a conveyance tax applicable to the
56 total sales price of such land, which tax shall be in addition to the tax
57 imposed under sections 12-494 to 12-504, inclusive. Said conveyance
58 tax shall be at the following rate: (1) Ten per cent of said total sales
59 price if sold within the first year following the date of such
60 classification; (2) nine per cent if sold within the second year following
61 the date of such classification; (3) eight per cent if sold within the third
62 year following the date of such classification; (4) seven per cent if sold
63 within the fourth year following the date of such classification; (5) six
64 per cent if sold within the fifth year following the date of such
65 classification; (6) five per cent if sold within the sixth year following
66 the date of such classification; (7) four per cent if sold within the
67 seventh year following the date of such classification; (8) three per cent
68 if sold within the eighth year following the date of such classification;
69 (9) two per cent if sold within the ninth year following the date of such
70 classification; and (10) one per cent if sold within the tenth year
71 following the date of such classification. No conveyance tax shall be
72 imposed on such record owner by the provisions of sections 12-504a to
73 12-504f, inclusive, as amended by this act, following the end of the
74 tenth year after the date of such classification by the record owner or
75 person acquiring title to such land or causing such land to be so
76 classified.

77 Sec. 4. Section 12-504c of the general statutes is repealed and the
78 following is substituted in lieu thereof (*Effective October 1, 2007, and*
79 *applicable to assessment years commencing on or after October 1, 2007*):

80 The provisions of section 12-504a, as amended by this act, shall not
81 be applicable to the following: (1) Transfers of land resulting from
82 eminent domain proceedings; (2) mortgage deeds; (3) deeds to or by
83 the United States of America, state of Connecticut or any political
84 subdivision or agency thereof; (4) strawman deeds and deeds which
85 correct, modify, supplement or confirm a deed previously recorded; (5)
86 deeds between husband and wife and parent and child when no
87 consideration is received, except that a subsequent nonexempt transfer
88 by the grantee in such cases shall be subject to the provisions of said
89 section 12-504a as it would be if the grantor were making such
90 nonexempt transfer; (6) tax deeds; (7) deeds of foreclosure; (8) deeds of
91 partition; (9) deeds made pursuant to a merger of a corporation; (10)
92 deeds made by a subsidiary corporation to its parent corporation for
93 no consideration other than the cancellation or surrender of the capital
94 stock of such subsidiary; (11) property transferred as a result of death
95 when no consideration is received and in such transfer the date of
96 acquisition or classification of the land for purposes of sections 12-504a
97 to 12-504f, inclusive, as amended by this act, whichever is earlier, shall
98 be the date of acquisition or classification by the decedent; (12) deeds
99 to any corporation, trust or other entity, of land to be held in
100 perpetuity for educational, scientific, aesthetic or other equivalent
101 passive uses, provided such corporation, trust or other entity has
102 received a determination from the Internal Revenue Service that
103 contributions to it are deductible under applicable sections of the
104 Internal Revenue Code; (13) land subject to a covenant specifically set
105 forth in the deed transferring title to such land, which covenant is
106 enforceable by the town in which such land is located, to refrain from
107 selling, transferring or developing such land in a manner inconsistent
108 with its classification as farm land pursuant to section 12-107c, forest
109 land pursuant to section 12-107d, [or] open space land pursuant to
110 section 12-107e or public golf course land pursuant to section 1 of this
111 act, for a period of not less than eight years from the date of transfer, if
112 such covenant is violated the conveyance tax set forth in this chapter
113 shall be applicable at the rate multiplied by the market value as
114 determined by the assessor which would have been applicable at the

115 date the deed containing the covenant was delivered and, in addition,
116 the town or any taxpayer therein may commence an action to enforce
117 such covenant; (14) land the development rights to which have been
118 sold to the state under chapter 422a; and (15) deeds to or from any
119 limited liability company when the grantors or grantees are the same
120 individuals as the principals or members of the limited liability
121 company. If action is taken under subdivision (13) of this section by a
122 taxpayer, such action shall commence prior to the ninth year following
123 the date of the deed containing such covenant and the town shall be
124 served as a necessary party.

125 Sec. 5. Section 12-504e of the general statutes is repealed and the
126 following is substituted in lieu thereof (*Effective October 1, 2007, and*
127 *applicable to assessment years commencing on or after October 1, 2007*):

128 Any land which has been classified by the owner as farm land
129 pursuant to section 12-107c, as forest land pursuant to section 12-107d,
130 [or] as open space land pursuant to section 12-107e, or as public golf
131 course land pursuant to section 1 of this act, if changed by him, within
132 a period of ten years of his acquisition of title, to use other than farm,
133 forest or open space, shall be subject to said conveyance tax as if there
134 had been an actual conveyance by him, as provided in sections 12-
135 504a, as amended by this act, and 12-504b, at the time he makes such
136 change in use. For the purposes of this section: (1) The value of any
137 such property shall be the fair market value thereof as determined by
138 the assessor in conjunction with the most recent revaluation, and (2)
139 the date used for purposes of determining such tax shall be the date on
140 which the use of such property is changed, or the date on which the
141 assessor becomes aware of a change in use of such property,
142 whichever occurs first.

143 Sec. 6. Section 12-504f of the general statutes is repealed and the
144 following is substituted in lieu thereof (*Effective October 1, 2007, and*
145 *applicable to assessment years commencing on or after October 1, 2007*):

146 (a) The tax assessor shall file annually, not later than sixty days after
147 the assessment date, with the town clerk a certificate for any land

148 which has been classified as farm land pursuant to section 12-107c, as
149 forest land pursuant to section 12-107d, [or] as open space land
150 pursuant to section 12-107e or as public golf course land pursuant to
151 section 1 of this act, which certificate shall set forth the date of the
152 initial classification and the obligation to pay the conveyance tax
153 imposed by this chapter. Said certificate shall be recorded in the land
154 records of such town. Any such classification of land shall be deemed
155 personal to the particular owner who requests such classification and
156 shall not run with the land. The town clerk shall notify the tax assessor
157 of the filing in the land records of the sale of any such land. Upon
158 receipt of such notice the tax assessor shall inform the new owner of
159 the tax benefits of classification of such land as farm land, forest land
160 or open space land.

161 (b) Notwithstanding subsection (a) of this section, upon approval of
162 an application for classification of golf course land pursuant to section
163 1 of this act, the assessor shall file a notice of the classification of such
164 land as golf course land in the land records of the town, and such filing
165 shall constitute a lien on the land for all taxes due upon or before such
166 filing.

167 Sec. 7. Section 12-504h of the general statutes is repealed and the
168 following is substituted in lieu thereof (*Effective October 1, 2007, and*
169 *applicable to assessment years commencing on or after October 1, 2007*):

170 Any such classification of farm land pursuant to section 12-107c,
171 forest land pursuant to section 12-107d, [or] open space land pursuant
172 to section 12-107e, or as public golf course land pursuant to section 1 of
173 this act shall be deemed personal to the particular owner who requests
174 and receives such classification and shall not run with the land. Any
175 such land which has been classified by a record owner shall remain so
176 classified without the filing of any new application subsequent to such
177 classification, notwithstanding the provisions of said sections 12-107c,
178 12-107d and 12-107e, until either of the following shall occur: (1) The
179 use of such land is changed to a use other than that described in the
180 application for the existing classification by said record owner, or (2)

181 such land is sold or transferred by said record owner. Upon the sale or
 182 transfer of any such property, the classification of such land as farm
 183 land pursuant to section 12-107c, forest land pursuant to section 12-
 184 107d, or open space land pursuant to section 12-107e, shall cease as of
 185 the date of sale or transfer. In the event that a change in use of any
 186 such property occurs, the provisions of section 12-504e, as amended by
 187 this act, shall apply in terms of determining the date of change and the
 188 classification of such land as farm land pursuant to section 12-107c,
 189 forest land pursuant to section 12-107d, or open space land pursuant to
 190 section 12-107e shall cease as of such date.

191 Sec. 8. (NEW) (*Effective October 1, 2007, and applicable to assessment*
 192 *years commencing on or after October 1, 2007*) Any owner of land
 193 classified as public golf course land pursuant to section 1 of this act
 194 shall give written notice by certified mail to the: (1) Chief elected
 195 official, city council or selectman, (2) assessor, and (3) municipal
 196 zoning commission, planning commission or combined planning and
 197 zoning commission of such owner's intention to sell or convert such
 198 land to a use other than that of public golf course land. If the owner
 199 intends to sell such land, the city or town may match a bona fide offer
 200 to purchase such land. If the owner intends to convert such land for a
 201 use other than that of public golf course land, the city or town may
 202 purchase such land at its fair market value, as determined by an
 203 impartial appraisal. The city or town may assign its option to purchase
 204 such land to a nonprofit conservation organization of its choosing. The
 205 owner may not sell or convert such land until not less than one
 206 hundred twenty days after the mailing of the required notices or until
 207 the owner has been notified in writing that the town shall not exercise
 208 its option to purchase the land, whichever is earlier.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007, and applicable to assessment years commencing on or after October 1, 2007</i>	New section

Sec. 2	<i>October 1, 2007, and applicable to assessment years commencing on or after October 1, 2007</i>	12-63(a)
Sec. 3	<i>October 1, 2007, and applicable to assessment years commencing on or after October 1, 2007</i>	12-504a(b)
Sec. 4	<i>October 1, 2007, and applicable to assessment years commencing on or after October 1, 2007</i>	12-504c
Sec. 5	<i>October 1, 2007, and applicable to assessment years commencing on or after October 1, 2007</i>	12-504e
Sec. 6	<i>October 1, 2007, and applicable to assessment years commencing on or after October 1, 2007</i>	12-504f
Sec. 7	<i>October 1, 2007, and applicable to assessment years commencing on or after October 1, 2007</i>	12-504h
Sec. 8	<i>October 1, 2007, and applicable to assessment years commencing on or after October 1, 2007</i>	New section

ENV *Joint Favorable Subst. C/R*

FIN

FIN *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Department of Revenue Services	GF - Revenue Gain	Potential	Potential

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 08 \$	FY 09 \$
Various Municipalities	Revenue Impact	See Below	See Below

Explanation

Under current law, public golf course land¹ is assessed as commercial property for the purpose of local property tax assessment. The bill allows certain public golf course owners to have their golf course land assessed: (1) based on its value as undeveloped land without any improvements that are part of its recreational uses or its current use; and (2) without regard to more intensive land use in the neighborhood where the golf course is located.

This is expected to result in a loss in grand list value for towns that have public golf courses that would be assessed as undeveloped land under the provisions of the bill. It is anticipated that between 60 and 70 municipalities will be impacted. Therefore the affected municipalities would either have to increase their mill rate or modify their spending to offset any decrease in property taxes as a result of the reduction to their grand list.

There would also be a revenue gain to the state and municipal Real

¹ Some municipalities include golf courses in their plan of conservation and therefore assess the land as open space.

Estate Conveyance Taxes to the degree that classification of such lands change when transferred or sold within 10 years of the original classification.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 7122*****AN ACT CONCERNING THE PRESERVATION OF CERTAIN
PUBLIC GOLF COURSES AS OPEN SPACE.*****SUMMARY:**

This bill provides a property tax break for certain public golf course owners by treating public golf course land like farm, open space, and forest land under the "490" program. The bill defines "public golf course land" as any golf course land consisting of at least 25 acres that is open for public use for golfing, derives at least 50% of its annual revenues from daily fees or group outings, and consists of at least nine golf holes.

The bill provides that per-hole improvements to public golf course land are assessed on a depreciating sliding scale for three years, after which they are assessed as unimproved open space. Buildings and parking lots are assessed at market value.

The bill gives a municipality the right of first refusal when owners of land classified as public golf course land (1) seek to sell the property or (2) plan to change its use.

By law, a conveyance tax is imposed on land in the 490 program (1) when the use that it was classified for changes or (2) that is sold or transferred within 10 years of its classification (with certain exceptions). The bill extends the same conveyance tax penalty, as well as other 490 program provisions, to property classified as public golf course land.

It also makes conforming and technical changes.

EFFECTIVE DATE: October 1, 2007 and applicable to assessment

years commencing on or after October 1, 2007

PUBLIC GOLF COURSE LAND

490 Program and Public Golf Courses

By law, towns classify land as farm, open space, or forest under the 490 program. The bill adds public golf course land to the program and uses a classification process similar to that for farm land. Under the law, the classification processes for open space (i.e., not specific to a public golf course) and forest land have additional requirements (see BACKGROUND).

An owner of a public golf course that qualifies under the bill must also apply for a public golf course land classification.

By law, if the assessor determines an applicant's land is farm land, he or she must classify it as such and include it on the grand list (CGS § 12-107c). Presumably, an assessor would also determine that an applicant's land meets the bill's requirements for public golf course land and include it as such.

Public Golf Course Assessed Value

The bill specifies how public golf course land must be assessed. It provides that the present true and actual value of land classified as public golf course land is based on its value as open space land, plus an assessment based on per-hole depreciated improvements that are reduced by 40% during the first assessment year after application, 60% during the second year, 80% during the third year, and 100% each year after third. The bill specifies that the reduction does not include buildings and parking lots, which must be assessed at fair market value.

Applying for Public Golf Course Land Classification

Under the bill, a landowner may apply for classification of his or her land as public golf course land on any municipal grand list by filing a written notice with the assessor no less than 30 days before and no later than 30 days after the assessment date. But in a year in which a revaluation of all real property becomes effective, the application may

be filed no later than 90 days after the assessment date.

The bill (1) requires the assessor, upon approval of an application for classification as public golf course land, to file a notice of the classification in the municipality's land records and (2) provides that the filing constitutes a lien on the land for all taxes due on or before such filing.

If a landowner fails to apply for public golf course land classification within the bill's prescribed time limit, he or she is considered to have waived the right to such classification.

As under current law for 490 land, any person aggrieved by an assessor's denial of land classification as public golf course land has the same rights and remedies for appeal and relief as the law provides for other taxpayers claiming to be aggrieved by the actions of assessors or boards of assessment appeals.

RIGHT OF FIRST REFUSAL AND OPTION TO PURCHASE

Under the bill, any owner of land classified as public golf course land must notify, via certified mail, the (1) chief elected official, city council, or selectperson; (2) assessor; and (3) municipal zoning commission, planning commission, or combined planning and zoning commission of his or her intention to sell or convert the land to a use other than that of public golf course land. If the owner intends to sell the land, the municipality may match a bona fide offer to purchase the land. If the owner intends to convert the land to a use other than a public golf course, the municipality may purchase the land at its fair market value, as determined by an impartial appraisal. The municipality may assign its purchase option to a nonprofit conservation organization it chooses. The bill prohibits the owner from selling or converting the land until (1) at least 120 days have passed since he or she mailed the required notices or (2) he or she has been notified in writing that the town will not exercise its option to purchase the land, whichever is earlier.

CONFORMING WITH 490 LAW

The bill adds public golf course land to the following provisions of the 490 program.

Classification and Sale Notification

The law specifies that the classification of land as open space, farm, or forest land under the 490 program is personal to its owner and does not run with the land. Under the law, the classification runs until (1) the land's use is changed to something other than was described in the owner's application, (2) the land is sold, or (3) the land is transferred. In the case of a change in use, the classification terminates on the earlier of the date the use changes or the assessor becomes aware of this change.

By law, the town clerk must notify the assessor of the sale of any land that is in the program when the sale is filed in the land records. Upon receiving the notice, the assessor must notify the new owner of the tax benefits of participating in the program. The law requires the filing of a revised program application with the assessor whenever ownership of land in the program changes.

Conveyance Tax

By law, a conveyance tax is imposed on land in the program when its use is changed or if it is sold or transferred within 10 years of its classification. The tax is 10% if the land is sold in the first year following its classification, and decreases by 1% per year. The law also imposes the tax based on sales or transfers within 10 years if a person other than the owner caused the land to be classified as open space or farm or forest land. By law, the tax penalty is based on the property's fair market value as determined in conjunction with the most recent revaluation.

The conveyance tax does not apply in several circumstances under the law, including (1) transactions involving deeds to or from a limited liability corporation when the grantors or grantees are the same individuals as the principals or members of the corporation and (2) a land owner's death where no consideration was received for the land.

By law, the tax also does not apply if the land is subject to a covenant that runs for at least eight years, is enforceable by the municipality, and that precludes the land from being sold, used, or transferred for purposes inconsistent with the program. The town or any of its residents can initiate an action to enforce the covenant. The law specifies that if a taxpayer initiates the action, the action must commence before the ninth year following the date of the deed containing the covenant. By law, anyone aggrieved by the imposition of the tax can appeal to the board of assessment appeals.

BACKGROUND

490 Program

The 490 Program is the popular name for PA 63-490, the public act that created it. Under the law, 490 program farm, open space, and forest land is assessed at its current use value for property tax purposes.

Farm Land. The law requires assessors in every town to determine the value of farm land under 490 based solely on how it is being used (i.e., current use value) without regard to its potential resale or fair market value (i.e., the highest and best use one can make of undeveloped land). A farmer must apply for such an assessment and the land must be farm land, as defined by law, which the assessor must determine.

Open Space Land. By law, a property qualifies for the open space classification if it is located in an area that a municipality's planning commission designated as open space in its plan of conservation and development. The commission may designate the area as open space if doing so would (1) maintain and enhance natural or scenic resources; (2) protect streams or water supplies; (3) promote soil conservation; (4) enhance the value of parks, forests, other open spaces, public recreation, or historic sites; or (5) promote orderly development (CGS § 12-107b). If a property is located in a designated area, its owner may petition the assessor to tax the property based on current use value (CGS § 12-107e(b)).

Forest Land. Under the law, to qualify for classification, eligible forest land must consist of (1) one tract of 25 or more contiguous acres or (2) at least two tracts totaling at least 25 acres, in which no single tract is less than 10 acres. Additionally, land contiguous to a forest land tract owned by the same person can be classified as forest land, if it meets the law's standards. The act requires landowners to hire DEP-certified foresters to determine and report if their land meets standards the state forester sets.

A land owner may apply for forest land classification on any municipal grand list by submitting an application and a copy of the certified forester's report to the assessor.

Related Bill

sHB 6776 provides a property tax break for certain licensed commercial lobster fishermen by adding "maritime heritage land," which the bill defines, to "490 program" land. On March 21, 2007, the Environment Committee favorably reported a substitute to the Finance, Revenue and Bonding Committee, which favorably reported a substitute on April 17, 2007.

Under the bill, maritime heritage land is the portion of waterfront real property that a licensed commercial lobster fishermen owns and uses for lobstering purposes. To qualify for the designation under the bill, a lobsterman owning the land must apply to the assessor and have derived at least 50% of his or her federal adjusted gross income for the prior tax year from commercial lobster fishing, subject to the town assessor having satisfactory proof. As with farm land under the law, once the assessor determines that a maritime heritage land applicant meets the bill's requirements, he or she must classify the land as such and include it on the grand list. Such land is also subject to the tax conveyance penalty and the other provisions of the 490 program.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute Change of Reference

Yea 21 Nay 10 (03/21/2007)

Finance, Revenue and Bonding Committee

Joint Favorable

Yea 31 Nay 20 (04/10/2007)